

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**QUINN SIFFORD**

Claimant

VS.

**BARTEL CORPORATION**

Respondent

AND

STATE FARM INSURANCE COMPANIES

Insurance Carrier

Docket No. 162,641

## ORDER

**ON** the 31st day of March, 1994, the claimant's application for review by the Workers Compensation Appeals Board of an Award entered by Administrative Law Judge George R. Robertson dated February 24, 1994, came on before the Appeals Board for oral argument.

## APPEARANCES

Claimant appeared by his attorney David H. Farris of Wichita, Kansas. Respondent and its insurance carrier appeared by their attorney James A. Cline of Wichita, Kansas. There were no other appearances.

# RECORD

The record considered by the Appeals Board is the same as that specifically set forth in the Award of the Administrative Law Judge.

## STIPULATIONS

The stipulations of the parties are the same as those specifically set forth in the Award of the Administrative Law Judge.

## ISSUES

The Administrative Law Judge denied an award of compensation. The claimant requests the Appeals Board to review that finding. The issues now before the Appeals Board are:

- (1) Whether claimant met with personal injury by accident arising out of and in the course of his employment with the respondent.
- (2) What is the nature and extent of claimant's disability, if any?
- (3) Whether claimant is entitled to medical compensation consisting of outstanding medical expense and future medical care and treatment.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the entire record, the Appeals Board finds that the Award of Administrative Law Judge George R. Robertson dated February 24, 1994, denying claimant workers compensation benefits should be affirmed in all respects.

On November 25, 1991, claimant struck his head on a backhoe and was knocked unconscious for several minutes. Claimant saw a number of physicians and other health care providers for physical and psychological evaluations, and was ultimately referred by the Administrative Law Judge to a Wichita psychologist, T.A. Moeller, for an independent psychological evaluation.

Claimant alleges that as a result of the accident of November 1991 that he cannot do his former job as a framer and continues to experience difficulty with severe headaches, balance and coordination. Based upon the testimony of Dr. Moeller, the Appeals Board finds that the claimant undoubtedly has significant, ongoing, psychological distress and is in need of treatment; however, claimant's psychological problems cannot be traced to the work related accident of November 1991, nor is there clear data to establish that claimant's preexisting psychological condition was enhanced by the incident in question. Whether claimant experienced permanent injury or aggravation as a result of the work related accident of November 1991 is a difficult question as the physicians who testified or whose reports were admitted into evidence had varying diagnoses and opinions. The Appeals Board finds psychologist Moeller's opinions persuasive as the Administrative Law Judge requested the evaluation and the psychologist had access to most, if not all, of the medical and psychological records generated up to that date. Dr. Moeller's opinion constitutes the more independent, unbiased assessment of claimant.

In proceedings under the workers compensation act, the burden of proof shall be upon the claimant to establish his right to an award of compensation and to prove the various conditions upon which the claimant's right depends. In determining whether claimant has satisfied this burden of proof, the trier of fact shall consider the whole record. K.S.A. 44-501(a).

"Burden of proof" means the burden of a party to persuade the trier of fact by a preponderance of the credible evidence that such party's position on an issue is more probably true than not on the basis of the whole record. K.S.A. 44-508(g).

Based upon the above, the claimant has failed to establish his right to workers compensation benefits. Claimant's request for permanent partial disability benefits and medical benefits is denied.

The Appeals Board adopts the findings and conclusions set forth by Administrative Law Judge Robertson in his Award dated February 24, 1994, that are not inconsistent with the specific findings made herein.

**AWARD**

**WHEREFORE**, it is the finding, decision and order of the Appeals Board that the Award of Administrative Law Judge George R. Robertson dated February 24, 1994, should be, and hereby is, affirmed in all respects.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of July, 1994.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

cc: David H. Farris, PO Box 47370, Wichita, Kansas 67201-7370  
James A. Cline, 825 N Waco, Wichita, Kansas 67203  
George R. Robertson, Administrative Law Judge  
George Gomez, Director